

ATTENTION

SENATE BILL 1118 EFFECTIVE JANUARY 1, 2006

Circuit Court Civil Actions. Creates a single form of pleading for civil actions. Legal and equitable claims will remain distinct, and the situations where issues are heard by a jury are unchanged. The bill will become effective January 1, 2006.

The Rules of Court revisions set forth a simplification of Virginia Litigation procedure in civil cases by having one form of action in the court. This is a minor alteration of the litigation landscape, which nonetheless will be very advantageous. This simplification of procedure will accomplish one fundamental goal: it avoids the mistakes and burdens that now occur when parties attempt to select the side of court on which to bring a claim and the problems of transferring suits from one side of the court to the other.

The “single form of action” will permit a trial judge to follow equitable doctrines for claims and defenses of that nature, and accord jury trial rights and monetary relief for claims at law, without requiring the parties to file multiple suits, transfer from side to side, or to seek a stay of one court’s action to pursue the other exclusively.

Relevant Rules of Court Amendments. Part Three of the Rules of Court, effective January 1, 2006, melds existing Parts Two and Three into a single roster of procedural rules applicable to both legal and equitable claims. The result will be a simple set of trial level of procedural rules applicable to all civil causes of action.

➤ ***According to Amended Rule 3:1. Scope***

“There shall be one form of civil cases, known as a civil action. These Rules apply to all civil actions, in the circuit courts, whether the claims involved arise under legal or equitable causes of action, unless otherwise provided by law.”

➤ ***According to Amended Rule 3:2. Commencement of Civil Actions.***

*“A civil action shall be commenced by filing a **complaint** in the clerk’s office.”*

NOTE: Civil Actions will be commenced by filing a “**COMPLAINT**”, not a “Bill of Complaint” or “Motion for Judgment.”

➤ ***According to Amended Rule 3:5. The Summons***

“The process of the courts in civil actions shall be a summons.”

“The copies of the complaint, with a summons so attached, shall be delivered by the clerk for service together as the plaintiff may direct.”

NOTE: Process will be via a “**SUMMONS**” not a “Subpoena In Chancery” or “Notice of Motion for Judgment.”

CASE NUMBERING CHANGES. Effective January 1, 2006, all civil actions, both law & equitable, will be assigned a case number beginning with “CL”. There will no longer be files assigned a case number beginning with “CH”. Reinstatements of equitable cases filed prior to January 1, 2006, will be assigned a new “CL” number and cross-referenced with the old “CH” number.

FILING FEES CHANGES. Generally, the customary filing fees under §17.1-275 do not change. However, please note changes to sections 13 and 26 of this code.

FREQUENTLY ASKED QUESTIONS?

1. Are Law & Equity Merged?

Answer. No. The new system creates a single procedure system for cases in the Commonwealth, while preserving in all respects the distinctions between law and equitable claims. The changes will not alter the historic characterization of causes of action as legal or equitable in nature.

2. Will Jury Trial Rights Be Affected?

Answer. No. The new statute and Rules will not alter the historic rules for availability of a jury. The right to demand a jury trial in actions at law in which a jury is available are to be preserved. Actions sounding in equity will be heard by the court without a jury. In mixed claims, it is expected that claims triable to a jury will be heard before judgment is entered on claims tried to the court.

3. Will the practices for use of a Commissioner In Chancery be altered?

Answer. No. In suits, upon equitable claims the trial court remain free to use Commissioners to the extent permitted by the Code of Virginia (amended in 2005), applicable Rules of Court, and local practice.

4. Do the roles of the General District Court and the Juvenile and Domestic Relations District Court change?

Answer. No. This reform does not confer on the General District Court, or the Juvenile and Domestic Relations District Court, any greater power to issue injunctions or other equitable relief than the courts have at present. Rather, the focus of the change is to harmonize the two sides of the Circuit Court.

5. Will the Court reject pleadings labeled “Bill of Complaint” or “Motion for Judgment”?

Answer. No. However, the commencement of a civil action shall be filed according to the Amended Rules of Court effective January 1, 2006.

******Due to statutory changes, the long time distinction between Law and Chancery filings will come to an end effective January 1, 2006. After this date, there will be one form of action in Virginia Courts, called a civil action. Civil actions can consist of both equitable and legal claims, and will be processed in the new Civil Division. ******